



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Numbers: OA/05330/2012
OA/05333/2012

THE IMMIGRATION ACTS

Heard at Field House

On 10 October 2013

Determination

Promulgated

On 28 October 2013

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

**GEOFFREY SOLOMON BAGEYA
HILLARY JOAN MUTESI**

Appellants

AND

ENTRY CLEARANCE OFFICER, NAIROBI

Respondent

DIRECTIONS

1. The appellants are nationals of Uganda. They have appealed the decisions of the Entry Clearance Officer of 17 February 2012 refusing entry clearance to the United Kingdom.
2. The history of their appeals is unfortunate and protracted. There have now been two hearings before First-tier Judges and one before the Upper Tribunal. The matter comes before me now as a consequence of a hearing before a First-tier Tribunal Judge on 30 April 2013. He dismissed the appeal in respect of the second appellant on the basis that it had not been

shown that her parentage was as claimed. That had clear implications for the Article 8 claim of the first appellant also.

3. Immediately after the hearing Miss Manyonga, who the second appellant claimed was her mother, and who the judge had not accepted had established this, told her Counsel that she had referred to her relationship with Mr Bageya, who is accepted as the father of both appellants, and to the fact that she had given birth to his daughter, in a statement accompanying her claim for asylum in 2003 but that statement had not been included in the bundle. The information was communicated to the Presenting Officer and it was agreed that the Tribunal should be reconvened for the matter to be put before the judge. Unfortunately the judge was no longer in the building and, though the relevant statement was forwarded to him with a covering letter explaining the exceptional circumstances, it appears that this was never put before the judge, there being no reference to it in his determination or on the file.
4. Before me Mr Rendle, who has appeared for the appellants throughout, argued that the matter fell for consideration under the Immigration and Asylum Tribunal (Procedure) Rules 2005, with particular reference to Rule 60(1A). This states as follows:

“The Tribunal may either of its own motion or on application, review any order, notice of decision or determination made by the Tribunal and, after consulting all the parties to the appeal, may set it aside and direct that the relevant proceeding be dealt with again by the Tribunal, on the ground that it was wrongly made as a result of an administrative error on the part of the Tribunal or its staff.”

4. It was the joint submission of Mr Rendle and Ms Pal who appeared on behalf of the Entry Clearance Officer, that the failure by the staff to put the evidence before the judge before he concluded and promulgated his determination amounted to an administrative error. I agree with this submission, and as a consequence I set aside the determination of the judge. The relevant proceedings are hereby directed to be dealt with again by the First-tier Tribunal, by a judge other than Judge Paul or Judge Verity. and that hearing will take place at Taylor House on a date to be fixed.

Signed

Date

Upper Tribunal Judge Allen